

Via Facsimile (703) 872-9306

**9D-DW-19324-CIP
PATENT**

REMARKS

The Office Action mailed August 24, 2004 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 6-19 are now pending in this application. Claims 6-19 stand rejected. Claims 1-5 are canceled.

The rejection of Claims 6-19 under 35 U.S.C. § 103(a) as being unpatentable over Rop (U.S. Patent No. 2,948,560) is respectfully traversed.

Rop describes a latch mechanism for a household refrigerator. A keeper (11) is rigidly secured to a refrigerator cabinet for engagement and disengagement of a pivotally mounted latch bolt (14). The latch bolt includes a keeper engaging roller (16), a base portion (17), and a resiliently flexible portion (18) extending therebetween. The latch bolt base portion includes a slot (19) that receives a pin (24) of a handle (20). The handle extends beyond a hood and rotates about a pivot pin (21), and as the handle is rotated, movement of the pivot pin in slot of the latch bolt base portion causes the flexible portion of the latch bolt to rotate and engage or disengage the keeper engaging roller from the rigid keeper mounted to the refrigerator cabinet.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. The mere assertion that "[i]t would have been obvious...to change the shape of the hooded portion, from square to round...to have a resilient keeper...to have a latch assembly...in order to have a tight closure of the door" does not support a prima facie obvious rejection. Rather, each allegation of what would have been an obvious matter of design choice must always be supported by citation to some reference work recognized as standard in the pertinent art, and the Applicants given an opportunity to challenge the correctness of the assertion or the repute of the cited reference. Applicants have not been provided with the citation to any reference supporting the combination made in the rejection. The rejection, therefore, fails to provide the Applicants with a fair opportunity to respond to the rejection, and fails to provide the Applicants with the opportunity to challenge the correctness of the rejection. Therefore, Applicants respectfully request that the Section 103 rejection be withdrawn.

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Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on modifying the teachings of a single patent in an attempt to arrive at the claimed invention. However, there is no teaching nor suggestion in the cited art for the modifications deemed obvious by the Examiner, and as such, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated elements of a single disclosure have been picked and chosen in an attempt to deprecate the present invention. Of course, such a hindsight reconstruction is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 6-19 be withdrawn.

Further, and to the extent understood, Rop does not describe nor suggest the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 6 recites "a dishwasher door latch assembly for a dishwasher comprising a door comprising a door retainer projection and a rounded hooded portion...a resilient keeper coupled to the dishwasher...a latch handle pivotally mounted to said door beneath said rounded hooded portion, said latch handle disposed entirely within said hooded portion...."

Rop does not describe nor suggest a dishwasher door latch assembly for a dishwasher including a door including a door retainer projection and a rounded hooded portion, a resilient keeper coupled to the dishwasher, a latch handle pivotally mounted to the door beneath the rounded hooded portion, the latch handle disposed entirely within the hooded portion. Rather in contrast to the present invention, Rop describes a handle that is disposed beyond a hood. Accordingly, for at least the reasons set forth above, Claim 6 is submitted to be patentable over Rop.

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Claims 7-10 depend from independent Claim 6. When the recitations of Claims 7-10 are considered in combination with the recitations of Claim 6. Applicants submit that dependent Claims 7-10 likewise are patentable over Rop.

Claim 11 recites "a dishwasher comprising a tub assembly comprising a resilient keeper attached thereto...a door assembly comprising a rounded hooded portion and a door retainer projection for engagement with said keeper...a latch handle pivotally coupled to said door assembly for rotation about a first longitudinal axis, said latch handle disposed entirely within said hooded portion...."

Rop does not describe nor suggest a dishwasher including a tub assembly including a resilient keeper attached thereto, a door assembly comprising a rounded hooded portion and a door retainer projection for engagement with the keeper, a latch handle pivotally coupled to the door assembly for rotation about a first longitudinal axis, the latch handle disposed entirely within the hood. Rather in contrast to the present invention, Rop describes a handle that is disposed beyond a hooded portion. Accordingly, for at least the reasons set forth above, Claim 11 is submitted to be patentable over Rop.

Claims 12-15 depend from independent Claim 11. When the recitations of Claims 12-15 are considered in combination with the recitations of Claim 11. Applicants submit that dependent Claims 12-15 likewise are patentable over Rop.

Claim 16 recites "a dishwasher door assembly, said door assembly comprising an escutcheon comprising a latch portion and a rounded hooded portion...a latch handle pivotally mounted to said escutcheon beneath said rounded hooded portion about a first longitudinal axis, said latch handle disposed entirely within said hooded portion...."

Rop does not describe nor suggest a dishwasher door assembly, the door assembly including an escutcheon including a latch portion and a rounded hooded portion, a latch handle pivotally mounted to the escutcheon beneath the rounded hooded portion about a first longitudinal axis, the latch handle disposed entirely within the hooded portion. Rather in contrast to the present invention, Rop describes a handle that is disposed beyond a hood.

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Accordingly, for at least the reasons set forth above, Claim 16 is submitted to be patentable over Rop.

Claims 17 and 18 depend from independent Claim 16. When the recitations of Claims 17 and 18 are considered in combination with the recitations of Claim 16. Applicants submit that dependent Claims 17 and 18 likewise are patentable over Rop.

Claim 19 recites "a dishwasher comprising a tub assembly comprising a resilient keeper attached thereto...a door assembly comprising a bracket, a door retainer projection for engaging said keeper, a rounded hooded portion...a latch handle hingedly coupled to said bracket, said latch handle selectively positionable about a first longitudinal axis, said latch handle disposed entirely within said hooded portion...."

Rop does not describe nor suggest a dishwasher including a tub assembly including a resilient keeper attached thereto, a door assembly including a bracket, a door retainer projection for engaging the keeper, a rounded hooded portion, a latch handle hingedly coupled to the bracket, the latch handle selectively positionable about a first longitudinal axis, the latch handle disposed entirely within the hooded portion. Rather in contrast to the present invention, Rop describes a handle that is disposed beyond a hood. Accordingly, for at least the reasons set forth above, Claim 19 is submitted to be patentable over Rop.

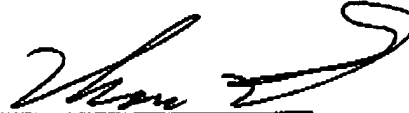
For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 6-19 be withdrawn.

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In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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